

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the Application of:	Atty. Docket No.:	004770.01910
Stefano Faccin, et al.		
Serial No.:	Group Art Unit:	2616
09/758,267		
Filed:	Examiner:	Ian N. Moore
January 12, 2001		
For:	Confirmation No.	4056
COMMON CHARGING IDENTIFIER		
FOR COMMUNICATION		
NETWORKS		

**REPLY BRIEF**

U.S. Patent and Trademark Office  
Customer Service Window  
Mail Stop - Appeal  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Sir:

This Reply Brief timely responds to the Examiner's Answer mailed December 4, 2008. Please charge any necessary fees in connection with this Reply Brief to our Deposit Account No. 19-0733.

**STATUS OF CLAIMS**

Claims 1-6, 8-19, 22 and 24-32 in the application are allowed. Claims 7, 20, 21, 23 and 33-37 are cancelled. Claims 38 and 39 are pending and were finally rejected by the Examiner in the Office Action dated January 12, 2007.

**GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

Claims 38 and 39 are rejected under 35 USC 102(b) as being anticipated by the GSM/GPRS network shown and discussed in PCT Patent Document No. WO 97/26739 to Kari et al.

Claims 38 and 39 are rejected under 35 USC 103(a) as being rendered obvious by the GSM/GPRS network shown in Figs. 1 and 2 of U.S. Patent No. 6,463,275 to Deakin in view of U.S. Patent No. 6,496,690 to Cobo.

## **ARGUMENT**

Appellants hereby maintain and incorporate by reference all arguments made in their Appeal Brief. In addition, Appellants submit the following remarks in response to the Examiner's Answer.

Section I(A) of the Examiner's Answer asserts that the IMSI corresponds to the charging identification recited in claim 38. The Examiner's Answer then discusses (at page 12) use of the IMSI ID, contained in information sent from a GGSN or SGSN to a BGSN. For this to be relevant to claim 38, however, the GGSN or SGSN would need to create the IMSI ID, and the Examiner's Answer does not establish that a GPRS system network element *creates* the IMSI. It is further noted that sending a CDR from an SGSN or GGSN to a BGGSN is not the sending of a charging identifier generated by the SGSN to a different network layer network element. A GGSN and a BGGSN are similar network elements handling similar network layers; the main difference is that a BGGSN handles an interface with the billing center.

The Examiner's Answer also fails to clearly explain what in Kari is the transport layer network (and why) and what in Kari is application layer network (and why). Kari FIG. 1 and page 5, lines 1-29, which are cited repeatedly in the Examiner's Answer, relate to a GSM/GPRS transport layer network and do not mention or hint that there exists an application layer. In section I(C) (page 17, lines 1-5) the Examiner's Answer refers to Kari FIG. 1 and asserts that an application layer network is "reasonably interpreted" as "a combined system of near end MS, MSC, GGSN, SGSN, HLR Internet and far end MS, which provides a [sic] application layer networking for user equipment" and that a transport layer network is reasonably interpreted as "a combined system of near end MS, BSC, MSC, SGSN, GGSN, Internet, and far end MS which provides transport layer networking." The Examiner's Answer does not explain, for example, why the group of network elements supposedly constituting an application layer network includes "HLR Internet" but not a BSC, nor why the group of network elements supposedly constituting a transport layer network includes a BSC but not "HLR Internet." Notably, Kari FIG. 1 does not show an HLR, and it is not clear that an HLR is even discussed in the Kari specification.

Page 17 of the Examiner's Answer also refers to several parts of Applicants' specification indicating, e.g., that an IP-based mobile network *architecture* may have both application and transport layers. However, the fact that a particular network architecture may include both application layer elements and transport layer elements does not mean that the entire network is both an application layer network and a transport layer network, or that communication between any two elements in the architecture thus results in a transport layer/application layer interaction.

Notably, Kari does not consider the issue of transport and application layer networks, as the distinction between these two types of networks is not relevant to the invention in Kari. Although Kari relates to General Packet Radio Service (GPRS) and billing for use of GPRS, Kari does not deal with higher network layers that might send data using GPRS. Beginning at page 17, line 24, the Examiner's Answer states that "Kari discloses also discloses [sic] GPRS network 13, 14 and Internet 15 (in FIG. 1), which maps to 'application layer network' and 'transport layer network' of Appellant [sic] claimed invention." Nothing in Appellants' specification or drawings indicates that GPRS is an application layer as might be applicable to claims 38 and 39. To the contrary, and based on the portion of Appellants' specification at page 14, lines 9-11 cited by the Examiner, it is clear that GPRS would be a transport layer network and an IP telephony network (comprising, e.g., CSCFs) would be an application layer network. Together they form an IP telephony-based mobile *architecture*. GPRS alone cannot perform the tasks of the application and transport layer. For example, the application layer network could be coupled with a WLAN transport level network instead of a GPRS network to provide an IP telephony based architecture. A GPRS network alone cannot provide IP telephony services.

The Examiner's Answer at page 23 suggests that Deakin teaches a BCI generated in the NE. However, it is clearly evident from Deakin that the BCI is stored as part of subscription information to the HLR and from there sent to the NE (Deakin FIGS. 2-5; col. 2, lines 33-39; col. 3, lines 20-21 and 29-35). Thus there is no generation of the identifier in the NE. The BCI is downloaded from the HLR to the NE along with other subscriber information.

The NE does not create the BCI, but receives it from the HLR ("subscriber data with BCI" in FIGS. 2-5).

Part V of the Examiner's Answer attempts to summarize pages 10-12 of Appellant's Corrected Appeal Brief as follows:

**Regarding claims 38 and 39, the appellant argued that, "...Cobo does not send a charging identifier from an element in one network to an element in the other network... When the applied references are considered as a whole, they do not suggest selectively modifying Deakin to include a small part of Cobo as proposed in the rejection...the teaching of the Cobo patent is applicable to the GPRS system in Deakin if and only if Deakin does not include a method of providing prepaid subscriber service...Cobo patent teaches an improvement to the Deakin is incorrect...it thus would not obvious to selectively modify the solution set forth in Deakin to include the small portion of the solution set forth in the Cobo patent in the manner evidently proposed in the rejection..."** in page 10- 12.

Examiner's Answer at 23-24 (bold, underlining and ellipses in original).

In effect, the Examiner's Answer lumps together two distinct arguments by Appellants. The first of the lumped-together arguments is that neither Deakin nor Cobo teaches features of claims 38 and 39. The second of the lumped-together arguments is that a person of ordinary skill in the art would not have made the selective combination of Deakin and Cobo proposed in the final rejection. So as to clarify, Appellants reproduce below a portion of their Corrected Brief at pages 10-11, with italics added to indicate parts that the Examiner's Answer chose to include:

Claim 38 further recites that the network element is configured to "send said charging identification from said network element so as to be used by a further network element in the other one of the application layer network or the transport layer network..." Claim 39 conversely recites that the network element is configured to "receive said charging identification from a further network element operable in the other one of the application layer network of the transport layer network..."

The final rejection acknowledges that Deakin does not explicitly disclose these features, but asserts that they are taught by the Cobo patent. But these features are not present in the Cobo patent. The Create PDP Context Request 83 in the Cobo patent is sent from the SGSN to the GGSN. The SGSN and GGSN in the Cobo patent are both in the transport layer network. Thus, *Cobo does not send a charging identifier from an element in one network to an element in the other network.*

Secondly, one of ordinary skill in the art would not make the selective combination of Deakin and Cobo proposed in the final rejection. The final rejection asserts that it would have been obvious to send a charging ID to a GGSN node in the system of Deakin "so that it would provide a standardized method of providing a near real time account balance for subscriber's account and stopping the service when the balance reaches to zero; see Cobo col. 2, lines 5-14, 15-56; see col. 3, lines 34-39." *When the applied references are considered as a whole, they do not suggest selectively modifying Deakin to include a small part of Cobo as proposed in the rejection.*

Appellants note that the Examiner's Answer does not appear to even respond to the first argument (that neither Deakin nor Cobo teaches a relevant claim feature) except by simply repeating the rejection.

For the reasons set forth above and in their Appeal Brief, Appellants submit that the Examiner's January 12, 2007 final rejection of claims 38 and 39 is not proper. Appellants respectfully request that the Board reverse the Examiner's final rejection.

Respectfully submitted,  
BANNER & WITCOFF, LTD.

Dated: February 3, 2009

By: /H. Wayne Porter/  
H. Wayne Porter  
Registration No. 42,084

1100 13th Street, N.W., Suite 1200  
Washington, D.C. 20005-4051  
Tel: (202) 824-3000  
Fax: (202) 824-3001